



February 21, 2014

ENGROSSED

HOUSE BILL No. 1361

DIGEST OF HB 1361 (Updated February 20, 2014 11:47 am - DI 73)

Citations Affected: IC 5-16; IC 21-33; IC 21-34.

Synopsis: Public works projects. Amends the public works statute applicable to state universities so that contracts for small projects of a state university can be performed under a quotation procedure rather than a bid procedure. Increases dollar thresholds for state educational institution capital projects. Provides that the commission for higher education may authorize Ball State University to pay project costs for the construction and renovation of health and basic sciences facilities,
(Continued next page)

Effective: July 1, 2014.

Morrison, Karickhoff, Pierce

(SENATE SPONSORS — BANKS, KENLEY)

January 15, 2014, read first time and referred to Committee on Employment, Labor and Pensions.

January 21, 2014, reported — Do Pass.

January 27, 2014, read second time, amended, ordered engrossed.

January 28, 2014, engrossed. Read third time, passed. Yeas 92, nays 0.

SENATE ACTION

February 4, 2014, read first time and referred to Committee on Appropriations.

February 20, 2014, amended, reported favorably — Do Pass.

EH 1361—LS 7125/DI 75



Digest Continued

including Cooper Science, and that these costs may be reimbursed by the state, if the project is recommended by the commission for higher education to the general assembly. Modifies the per campus limits on the amount of outstanding bonds that a state educational institution may issue for qualified energy savings contracts. Provides that a project that causes a state educational institution to have outstanding debt for projects of more than \$15 million must produce operating savings in the first eight years that are at least equal to the initial debt for the project. Specifies that refunding bonds supported by fee replacement appropriations must be approved by the budget agency and must result in a savings as set forth in a finding by the board of trustees of the state educational institution. Specifies that refunding bonds may not have a longer term than the outstanding bonds to be refunded.



February 21, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1361

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-16-1-1.6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.6. In the case of fire,
3 flood, windstorm, casualty or other extraordinary emergency, including
4 mechanical failure of any part of a building or structure, and where the
5 health, safety or welfare of the public or the necessary governmental
6 operations are endangered by such loss or damage, the responsible
7 board or commission may, upon a declaration of emergency recorded
8 in its minutes, proceed to reconstruct or repair the building or structure
9 without advertising for bids. However, in such an emergency, ~~bids shall~~
10 **quotes may** be invited from at least three (3) or more persons, firms,
11 limited liability companies, or corporations known to deal in the work
12 required to be done, and the minutes of the board or commission shall
13 show the names of those persons, firms, limited liability companies, or
14 corporations invited to ~~bid~~ **submit quotes**.
15 SECTION 2. IC 5-16-1-1.7, AS AMENDED BY P.L.172-2011,
16 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

EH 1361—LS 7125/DI 75



JULY 1, 2014]: Sec. 1.7. On agricultural or forestry land owned or occupied by Purdue University and used by it for educational or research purposes, the trustees of the university may, upon a declaration of necessity recorded in its minutes, award contracts without advertising for bids or otherwise satisfying the requirements of this chapter, if the cost of work is estimated to be less than two hundred thousand dollars (\$200,000). However, ~~bids~~ **quotes** shall be invited from at least three (3) or more persons, firms, limited liability companies, or corporations known to deal in the work required to be done. The minutes of the board shall show the names of those invited to ~~bid~~ **submit quotes**.

SECTION 3. IC 5-16-1-1.9, AS AMENDED BY P.L.172-2011, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.9. **(a)** Notwithstanding this article, a state educational institution may award a contract for any construction or repair work to any building, structure, or improvement of the institution without advertising for bids and meeting other contract awarding requirements of this article whenever the estimated cost of the project is less than one hundred fifty thousand dollars (\$150,000). However, in awarding any contract under this section the state educational institution must do the following:

(1) Invite ~~bids~~ **quotes** from at least three (3) persons, firms, limited liability companies, or corporations known to deal in the work required to be done.

(2) Give notice of the project if the estimated cost of the project is more than ~~twenty-five~~ **one hundred fifty** thousand dollars ~~(\$25,000)~~ **(\$150,000)**. If required, notice must include a description of the work to be done and be given in at least one (1) newspaper of general circulation printed and published in the county in which the work is to be done.

(3) Award the contract to the **person who submits the** lowest and best ~~bidder~~ **quote**.

(b) A state educational institution that awards a contract under this section to a minority business enterprise may include the contract when assessing the state educational institution's performance in meeting the goal set under section 7 of this chapter.

SECTION 4. IC 5-16-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) A person who submits a bid **or quote** for a public works contract under this chapter that involves the installation of plumbing must submit evidence that the person is a licensed plumbing contractor under IC 25-28.5-1.

(b) If a public works contract under this chapter is awarded to a



1 person who does not meet the requirements of subsection (a), the
2 contract is void.

3 SECTION 5. IC 5-16-2-1.4 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.4. The political body
5 or officer authorized to let contracts for public works or improvement
6 may, in the reasonable exercise of discretion, reject all bids **or quotes**
7 submitted.

8 SECTION 6. IC 21-33-2-5 IS ADDED TO THE INDIANA CODE
9 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2014]: **Sec. 5. If approved by the commission for higher**
11 **education, Ball State University may pay for project costs related**
12 **to architectural, engineering, and consulting services for the**
13 **construction and renovation of health and basic sciences facilities,**
14 **including Cooper Science, in excess of the limits set forth in**
15 **IC 21-33-3-5 and IC 21-33-3-6. If the project is recommended by**
16 **the commission for higher education to the general assembly, these**
17 **costs may be reimbursed.**

18 SECTION 7. IC 21-33-3-5, AS AMENDED BY P.L.229-2011,
19 SECTION 237, IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) Subject to this section, in
21 addition to projects authorized by the general assembly, the board of
22 trustees of a state educational institution may engage in a project to:

23 (1) construct buildings or facilities of a cost greater than ~~five~~
24 ~~hundred thousand dollars (\$500,000);~~ **two million dollars**
25 **(\$2,000,000);** or

26 (2) purchase or lease-purchase land, buildings, or facilities the
27 principal value of which exceeds ~~two hundred fifty thousand~~
28 ~~dollars (\$250,000)~~ **two million dollars (\$2,000,000);**

29 only if there are funds available for the project, the project meets any
30 of the applicable conditions, and the project is reviewed by the
31 commission for higher education and approved by the governor upon
32 recommendation of the budget agency. The review by the commission
33 for higher education must be completed not later than ninety (90) days
34 after the project is submitted for review.

35 (b) If:

36 (1) any part of the cost of a project described in subsection (a) is
37 paid by state appropriated funds or by mandatory student fees
38 assessed all students for the project; and

39 (2) the project is to:

40 (A) construct new buildings or facilities of a cost greater than
41 ~~seven hundred fifty thousand dollars (\$750,000)~~ **two million**
42 **dollars (\$2,000,000);** or



(B) purchase or lease-purchase land, buildings, or facilities the principal value of which exceeds ~~five hundred thousand dollars (\$500,000)~~ **two million dollars (\$2,000,000)**; the project must also be approved by the general assembly.

(c) This section does not limit the board of trustees in supplementing a project approved by the general assembly from gifts or other available funds so long as approval for the expansion of the project is given by the governor on review by the commission for higher education and recommendation of the budget agency.

(d) The review and approval requirements of this section do not apply to a project to:

(1) construct buildings or facilities; or

(2) purchase or lease-purchase land, buildings, or facilities;

if the project involves the expansion or improvement of housing for students undertaken entirely by a fraternity or sorority at the state educational institution.

SECTION 8. IC 21-33-3-6, AS AMENDED BY P.L.229-2011, SECTION 238, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) Subject to subsection (b), in addition to projects authorized by the general assembly, the board of trustees of a state educational institution may engage in a repair and rehabilitation project for which:

(1) the cost of the project exceeds ~~seven hundred fifty thousand dollars (\$750,000)~~ **two million dollars (\$2,000,000)**; and

(2) any part of the cost of the project is paid by state appropriated funds or by mandatory student fees assessed all students **for the project**;

only if the project is reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency. The review by the commission for higher education must be completed not later than ninety (90) days after the project is submitted for review.

(b) If no part of the cost of a repair and rehabilitation project is paid by state appropriated funds or by mandatory student fees assessed all students **for the project**, the review and approval requirements of this section apply only if the project exceeds ~~one two million five hundred thousand dollars (\$1,500,000)~~ **(\$2,000,000)**.

SECTION 9. IC 21-33-3-7, AS AMENDED BY P.L.31-2010, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. In addition to projects authorized by the general assembly, the board of trustees of a state educational institution may engage in a project:



(1) to lease, other than a project to lease-purchase, a building or facility; and

(2) for which the annual cost of the project exceeds ~~one hundred~~ **fifty five hundred** thousand dollars ~~(\$150,000)~~ **(\$500,000)**;

only if the project is reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency. The review by the commission for higher education must be completed not later than ninety (90) days after the project is submitted for review.

SECTION 10. IC 21-34-6-6, AS ADDED BY P.L.2-2007, SECTION 275, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. **(a)** The board of trustees of a state educational institution may issue bonds for the purpose of:

(1) reimbursing the state educational institution for funds expended or advanced for interim financing of the cost of any building facility or facilities before the issuance of bonds for the facility or facilities; or

(2) subject **to subsection (b) and** to existing covenants and agreements with the holders of the outstanding obligations:

(A) funding outstanding obligations incurred or refunding outstanding bonds issued either under:

(i) this article; or

(ii) other applicable law;

for building facilities approved by the governor and the budget agency or its predecessor; or

(B) in part for funding or refunding purposes and in part for any other purpose authorized by this article; and

may secure the payment of the bonds as provided in this article.

(b) Bonds for refunding or advance refunding of any outstanding bonds approved under this article for which the general assembly has made a fee replacement appropriation may not be issued by a state educational institution under this chapter without the specific approval of the budget agency and before the board of trustees of the issuing state educational institution finds that the refunding or advance refunding will benefit the state educational institution because:

(1) a net savings to the state educational institution will be effected; or

(2) the net present value of principal and interest payments on the bonds is less than the net present value of the principal and interest payments on the outstanding bonds to be refunded.



The length of the term may not be extended for refunding or advance refunding bonds that are approved under this subsection compared to the term of the outstanding bonds being refunded.

SECTION 11. IC 21-34-10-7, AS AMENDED BY P.L.173-2011, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. **(a)** Bonds may be issued by the board of trustees of a state educational institution without the approval of the general assembly to finance a qualified energy savings project if annual operating savings to the state educational institution arising from the implementation of a qualified energy savings project are reasonably expected to be at least equal to annual debt service requirements on bonds issued for this purpose in each fiscal year. However, the amount of bonds outstanding for the state educational institution other than Ivy Tech Community College at any time for qualified energy savings projects, other than refunding bonds and exclusive of costs described in sections 3 and 4 of this chapter, **and except as provided in subsection (c), may not exceed the greater of:**

(1) fifteen million dollars (\$15,000,000) for each campus of the state educational institution; **or**

(2) the product of:

(A) the total replacement value of all structures located on each campus of the state educational institution; multiplied by

(B) two percent (2%).

The amount of bonds outstanding for Ivy Tech Community College at any time for qualified energy savings projects, other than refunding bonds and exclusive of costs described in sections 3 and 4 of this chapter, may not exceed forty-five million dollars (\$45,000,000).

(b) Bonds issued under this section are not eligible for fee replacement.

(c) If a particular qualified energy savings project for a state educational institution, other than Ivy Tech Community College, results in the amount of bonds outstanding at any time for all qualified energy savings projects for the state educational institution, other than refunding bonds and exclusive of costs described in sections 3 and 4 of this chapter, to exceed fifteen million dollars (\$15,000,000), the operating savings to the state educational institution arising from the implementation of that project must at least equal the original amount of bonds issued for that project in not more than eight (8) years.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1361, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1361 as introduced.)

Committee Vote: Yeas 7, Nays 4

Representative Gutwein

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1361 be amended to read as follows:

Page 1, delete lines 1 through 16.

Delete page 2.

Page 3, delete lines 1 through 4.

Page 3, line 34, after "1.9." insert "(a)".

Page 4, delete lines 11 through 32, begin a new paragraph and insert:

"(b) A state educational institution that awards a contract under this section to a minority business enterprise may include the contract when assessing the state educational institution's performance in meeting the goal set under section 7 of this chapter."

Page 5, delete lines 4 through 15.

Renumber all SECTIONS consecutively.

(Reference is to HB 1361 as printed January 21, 2014.)

MORRISON



COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1361, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, after line 7, begin a new paragraph and insert:

"SECTION 6. IC 21-33-2-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 5. If approved by the commission for higher education, Ball State University may pay for project costs related to architectural, engineering, and consulting services for the construction and renovation of health and basic sciences facilities, including Cooper Science, in excess of the limits set forth in IC 21-33-3-5 and IC 21-33-3-6. If the project is recommended by the commission for higher education to the general assembly, these costs may be reimbursed.**

SECTION 7. IC 21-33-3-5, AS AMENDED BY P.L.229-2011, SECTION 237, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) Subject to this section, in addition to projects authorized by the general assembly, the board of trustees of a state educational institution may engage in a project to:

- (1) construct buildings or facilities of a cost greater than ~~five hundred thousand dollars (\$500,000);~~ **two million dollars (\$2,000,000);** or
- (2) purchase or lease-purchase land, buildings, or facilities the principal value of which exceeds ~~two hundred fifty thousand dollars (\$250,000)~~ **two million dollars (\$2,000,000);**

only if there are funds available for the project, the project meets any of the applicable conditions, and the project is reviewed by the commission for higher education and approved by the governor upon recommendation of the budget agency. The review by the commission for higher education must be completed not later than ninety (90) days after the project is submitted for review.

(b) If:

- (1) any part of the cost of a project described in subsection (a) is paid by state appropriated funds or by mandatory student fees assessed all students for the project; and
- (2) the project is to:
 - (A) construct new buildings or facilities of a cost greater than ~~seven hundred fifty thousand dollars (\$750,000)~~ **two million dollars (\$2,000,000);** or



(B) purchase or lease-purchase land, buildings, or facilities the principal value of which exceeds ~~five hundred thousand dollars (\$500,000)~~ **two million dollars (\$2,000,000)**; the project must also be approved by the general assembly.

(c) This section does not limit the board of trustees in supplementing a project approved by the general assembly from gifts or other available funds so long as approval for the expansion of the project is given by the governor on review by the commission for higher education and recommendation of the budget agency.

(d) The review and approval requirements of this section do not apply to a project to:

- (1) construct buildings or facilities; or
- (2) purchase or lease-purchase land, buildings, or facilities;

if the project involves the expansion or improvement of housing for students undertaken entirely by a fraternity or sorority at the state educational institution.

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- (1) the cost of the project exceeds ~~seven hundred fifty thousand dollars (\$750,000)~~ **two million dollars (\$2,000,000)**; and
- (2) any part of the cost of the project is paid by state appropriated funds or by mandatory student fees assessed all students **for the project**;

only if the project is reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency. The review by the commission for higher education must be completed not later than ninety (90) days after the project is submitted for review.

(b) If no part of the cost of a repair and rehabilitation project is paid by state appropriated funds or by mandatory student fees assessed all students **for the project**, the review and approval requirements of this section apply only if the project exceeds ~~one two million five hundred thousand dollars (\$1,500,000)~~ **(\$2,000,000)**.

SECTION 9. IC 21-33-3-7, AS AMENDED BY P.L.31-2010, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. In addition to projects authorized by the general assembly, the board of trustees of a state educational institution may engage in a project:



(1) to lease, other than a project to lease-purchase, a building or facility; and

(2) for which the annual cost of the project exceeds ~~one hundred~~ **fifty five hundred** thousand dollars ~~(\$150,000)~~ **(\$500,000)**;

only if the project is reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency. The review by the commission for higher education must be completed not later than ninety (90) days after the project is submitted for review.

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(1) reimbursing the state educational institution for funds expended or advanced for interim financing of the cost of any building facility or facilities before the issuance of bonds for the facility or facilities; or

(2) subject **to subsection (b) and** to existing covenants and agreements with the holders of the outstanding obligations:

(A) funding outstanding obligations incurred or refunding outstanding bonds issued either under:

(i) this article; or

(ii) other applicable law;

for building facilities approved by the governor and the budget agency or its predecessor; or

(B) in part for funding or refunding purposes and in part for any other purpose authorized by this article; and

may secure the payment of the bonds as provided in this article.

(b) Bonds for refunding or advance refunding of any outstanding bonds approved under this article for which the general assembly has made a fee replacement appropriation may not be issued by a state educational institution under this chapter without the specific approval of the budget agency and before the board of trustees of the issuing state educational institution finds that the refunding or advance refunding will benefit the state educational institution because:

(1) a net savings to the state educational institution will be effected; or

(2) the net present value of principal and interest payments on the bonds is less than the net present value of the principal and interest payments on the outstanding bonds to be refunded.



The length of the term may not be extended for refunding or advance refunding bonds that are approved under this subsection compared to the term of the outstanding bonds being refunded.

SECTION 11. IC 21-34-10-7, AS AMENDED BY P.L.173-2011, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. **(a)** Bonds may be issued by the board of trustees of a state educational institution without the approval of the general assembly to finance a qualified energy savings project if annual operating savings to the state educational institution arising from the implementation of a qualified energy savings project are reasonably expected to be at least equal to annual debt service requirements on bonds issued for this purpose in each fiscal year. However, the amount of bonds outstanding for the state educational institution other than Ivy Tech Community College at any time for qualified energy savings projects, other than refunding bonds and exclusive of costs described in sections 3 and 4 of this chapter, **and except as provided in subsection (c), may not exceed the greater of:**

(1) fifteen million dollars (\$15,000,000) for each campus of the state educational institution; **or**

(2) the product of:

(A) the total replacement value of all structures located on each campus of the state educational institution; multiplied by

(B) two percent (2%).

The amount of bonds outstanding for Ivy Tech Community College at any time for qualified energy savings projects, other than refunding bonds and exclusive of costs described in sections 3 and 4 of this chapter, may not exceed forty-five million dollars (\$45,000,000).

(b) Bonds issued under this section are not eligible for fee replacement.

(c) If a particular qualified energy savings project for a state educational institution, other than Ivy Tech Community College, results in the amount of bonds outstanding at any time for all qualified energy savings projects for the state educational institution, other than refunding bonds and exclusive of costs



described in sections 3 and 4 of this chapter, to exceed fifteen million dollars (\$15,000,000), the operating savings to the state educational institution arising from the implementation of that project must at least equal the original amount of bonds issued for that project in not more than eight (8) years."

and when so amended that said bill do pass.

(Reference is to HB 1361 as reprinted January 28, 2014.)

KENLEY, Chairperson

Committee Vote: Yeas 10, Nays 0.

